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102D CONGRESS
1st Session
HOUSE OF REPRESENTATIVES
REPORT
102-391

EXTENSION OF NONDISCRIMINATORY TREATMENT TO CERTAIN COUNTRIES, EXTENSION OF UNEMPLOYMENT BENEFITS; AND CHEMICAL AND BIOLOGICAL WEAPONS CONTROL

NOVEMBER 26, 1991.—Ordered to be printed

Mr. ROSTENKOWSKI, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany H.R. 1724]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the amendment of the Senate to the bill (H.R. 1724) to provide for the termination of the application of title IV of the Trade Act of 1974 to Czechoslovakia and Hungary, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

SEC. 4. REPEAL OF THE PROHIBITION ON THE IMPORTATION OF SOVIET GOLD COINS.

Section 510 of the Comprehensive Anti-Apartheid Act of 1986 (22 U.S.C. 5100) is repealed.

TITLE I—EXTENSION OF NONDISCRIMINATORY TREATMENT TO ESTONIA, LATVIA, AND LITHUANIA

SEC. 101. CONGRESSIONAL FINDINGS.

The Congress finds the following:

(1) The Government of the United States extended full diplomatic recognition to Estonia, Latvia, and Lithuania in 1922.

(2) The Government of the United States entered into agreements extending most-favored-nation treatment with the Government of Estonia on August 1, 1925, the Government of

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Latvia on April 30, 1926, and the Government of Lithuania on July 10, 1926.

(3) The Union of Soviet Socialist Republics incorporated Estonia, Latvia, and Lithuania involuntarily into the Union as a result of a secret protocol to a German-Soviet agreement in 1939 which assigned those three states to the Soviet sphere of influence; and the Government of the United States has at no time recognized the forcible incorporation of those states into the Union of Soviet Socialist Republics.

(4) The Trade Agreements Extension Act of 1951 required the President to suspend, withdraw, or prevent the application of trade benefits, including most-favored-nation treatment, to countries under the domination or control of the world Communist movement.

(5) In 1951, responsible representatives of Estonia, Latvia, and Lithuania stated that they did not object to the imposition of "such controls as the Government of the United States may consider to be appropriate" to the products of those countries, for such time as those countries remained under Soviet domination or control.

(6) In 1990, the democratically elected governments of Estonia, Latvia, and Lithuania declared the restoration of their independence from the Union of Soviet Socialist Republics.

(7) The Government of the United States established diplomatic relations with Estonia, Latvia, and Lithuania on September 2, 1991, and on September 6, 1991, the State Council of the transitional government of the Union of Soviet Socialist Republics recognized the independence of Estonia, Latvia, and Lithuania, thereby ending the involuntary incorporation of those countries into, and the domination of those countries by, the Soviet Union.

(8) Immediate action should be taken to remove the impediments, imposed in response to the circumstances referred to in paragraph (5), in United States trade laws to the extension of nondiscriminatory treatment (most-favored-nation treatment) to the products of those countries.

(9) As a consequence of establishment of United States diplomatic relations with Estonia, Latvia, and Lithuania, these independent countries are eligible to receive the benefits of the Generalized System of Preferences provided for in title V of the Trade Act of 1974.

SEC. 102. EXTENSION OF NONDISCRIMINATORY TREATMENT TO THE PRODUCTS OF ESTONIA, LATVIA, AND LITHUANIA.

(a) IN GENERAL.—Notwithstanding any provision of title IV of the Trade Act of 1974 (19 U.S.C. 2431 et seq.) or any other provision of law, nondiscriminatory treatment (most-favored-nation treatment) applies to the products of Estonia, Latvia, and Lithuania.

(b) CONFORMING TARIFF SCHEDULE AMENDMENTS.—General Note 3(b) of the Harmonized Tariff Schedule of the United States is amended by striking out "Estonia", "Latvia", and "Lithuania".

(c) EFFECTIVE DATE.—Subsection (a) and the amendments made by subsection (b) apply with respect to goods entered, or withdrawn

from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

SEC. 103. TERMINATION OF APPLICATION OF TITLE IV OF THE TRADE ACT OF 1974 TO THE BALTICS.

Title IV of the Trade Act of 1974 (19 U.S.C. 2431 et seq.) shall cease to apply to Estonia, Latvia, and Lithuania effective as of the 15th day after the date of the enactment of this Act.

SEC. 104. SENSE OF THE CONGRESS REGARDING PROMPT PROVISION OF GSP TREATMENT TO THE PRODUCTS OF ESTONIA, LATVIA, AND LITHUANIA.

It is the sense of the Congress that the President should take prompt action under title V of the Trade Act of 1974 to provide preferential tariff treatment to the products of Estonia, Latvia, and Lithuania pursuant to the Generalized System of Preferences.

TITLE II—TRADE PREFERENCE FOR THE ANDEAN REGION

SEC. 201. SHORT TITLE.

This title may be cited as the "Andean Trade Preference Act".

SEC. 202. AUTHORITY TO GRANT DUTY-FREE TREATMENT.

The President may proclaim duty-free treatment for all eligible articles from any beneficiary country in accordance with the provisions of this title.

SEC. 203. BENEFICIARY COUNTRY.

(a) DEFINITIONS.—For purposes of this title—

(1) The term "beneficiary country" means any country listed in subsection (b)(1) with respect to which there is in effect a proclamation by the President designating such country as a beneficiary country for purposes of this title.

(2) The term "entered" means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.

(3) The term "HTS" means Harmonized Tariff Schedule of the United States.

(b) COUNTRIES ELIGIBLE FOR DESIGNATION; CONGRESSIONAL NOTIFICATION.—(1) In designating countries as beneficiary countries under this title, the President shall consider only the following countries or successor political entities:

Bolivia,
Ecuador,
Colombia,
Peru.

(2) Before the President designates any country as a beneficiary country for purposes of this title, he shall notify the House of Representatives and the Senate of his intention to make such designation, together with the considerations entering into such decision.

(c) LIMITATIONS ON DESIGNATION.—The President shall not designate any country a beneficiary country under this title—

(1) if such country is a Communist country;

(2) if such country—

(A) has nationalized, expropriated or otherwise seized ownership or control of property owned by a United States citizen or by a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens,

(B) has taken steps to repudiate or nullify—

(i) any existing contract or agreement with, or

(ii) any patent, trademark, or other intellectual property of,

a United States citizen or a corporation, partnership, or association, which is 50 percent or more beneficially owned by United States citizens, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of property so owned, or

(C) has imposed or enforced taxes or other exactions, restrictive maintenance or operational conditions, or other measures with respect to property so owned, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of such property, unless the President determines that—

(i) prompt, adequate, and effective compensation has been or is being made to such citizen, corporation, partnership, or association,

(ii) good-faith negotiations to provide prompt, adequate, and effective compensation under the applicable provisions of international law are in progress, or such country is otherwise taking steps to discharge its obligations under international law with respect to such citizen, corporation, partnership, or association, or

(iii) a dispute involving such citizen, corporation, partnership, or association, over compensation for such a seizure has been submitted to arbitration under the provisions of the Convention for the Settlement of Investment Disputes, or in another mutually agreed upon forum, and

promptly furnishes a copy of such determination to the Senate and House of Representatives;

(3) if such country fails to act in good faith in recognizing as binding or in enforcing arbitral awards in favor of United States citizens or a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens, which have been made by arbitrators appointed for each case or by permanent arbitral bodies to which the parties involved have submitted their dispute;

(4) if such country affords preferential treatment to the products of a developed country, other than the United States, and if such preferential treatment has, or is likely to have, a significant adverse effect on United States commerce, unless the President—

(A) has received assurances satisfactory to him that such preferential treatment will be eliminated or that action will be taken to assure that there will be no such significant adverse effect, and

(B) reports those assurances to the Congress;

(5) if a government-owned entity in such country engages in the broadcast of copyrighted material, including films or television material, belonging to United States copyright owners without their express consent or such country fails to work towards the provision of adequate and effective protection of intellectual property rights;

(6) unless such country is a signatory to a treaty, convention, protocol, or other agreement regarding the extradition of United States citizens; and

(7) if such country has not or is not taking steps to afford internationally recognized worker rights (as defined in section 502(a)(4) of the Trade Act of 1974) to workers in the country (including any designated zone in that country).

Paragraphs (1), (2), (3), (5), and (7) shall not prevent the designation of any country as a beneficiary country under this title if the President determines that such designation will be in the national economic or security interest of the United States and reports such determination to the Congress with his reasons therefor.

(d) FACTORS AFFECTING DESIGNATION.—In determining whether to designate any country a beneficiary country under this title, the President shall take into account—

(1) an expression by such country of its desire to be so designated;

(2) the economic conditions in such country, the living standards of its inhabitants, and any other economic factors which he deems appropriate;

(3) the extent to which such country has assured the United States it will provide equitable and reasonable access to the markets and basic commodity resources of such country;

(4) the degree to which such country follows the accepted rules of international trade provided for under the General Agreement on Tariffs and Trade, as well as applicable trade agreements approved under section 2(a) of the Trade Agreements Act of 1979;

(5) the degree to which such country uses export subsidies or imposes export performance requirements or local content requirements which distort international trade;

(6) the degree to which the trade policies of such country as they relate to other beneficiary countries are contributing to the revitalization of the region;

(7) the degree to which such country is undertaking self-help measures to protect its own economic development;

(8) whether or not such country has taken or is taking steps to afford to workers in that country (including any designated zone in that country) internationally recognized worker rights;

(9) the extent to which such country provides under its law adequate and effective means for foreign nationals to secure, exercise, and enforce exclusive rights in intellectual property, including patent, trademark, and copyright rights;

(10) the extent to which such country prohibits its nationals from engaging in the broadcast of copyrighted material, including films or television material, belonging to United States copyright owners without their express consent;

(11) whether such country has met the narcotics cooperation certification criteria set forth in section 481(h)(2)(A) of the Foreign Assistance Act of 1961 for eligibility for United States assistance; and

(12) the extent to which such country is prepared to cooperate with the United States in the administration of the provisions of this Act.

(e) WITHDRAWAL OR SUSPENSION OF DESIGNATION.—(1) The President may—

(A) withdraw or suspend the designation of any country as a beneficiary country, or

(B) withdraw, suspend, or limit the application of duty-free treatment under this title to any article of any country,

if, after such designation, the President determines that as a result of changed circumstances such a country should be barred from designation as a beneficiary country.

(2)(A) The President shall publish in the Federal Register notice of the action the President proposes to take under paragraph (1) at least 30 days before taking such action.

(B) The United States Trade Representative shall, within the 30-day period beginning on the date on which the President publishes under subparagraph (A) notice of proposed action—

(i) accept written comments from the public regarding such proposed action,

(ii) hold a public hearing on such proposed action, and

(iii) publish in the Federal Register—

(I) notice of the time and place of such hearing prior to the hearing, and

(II) the time and place at which such written comments will be accepted.

(f) TRIENNIAL REPORT.—On or before the 3rd, 6th, and 9th anniversaries of the date of the enactment of this title, the President shall submit to the Congress a complete report regarding the operation of this title, including the results of a general review of beneficiary countries based on the considerations described in subsections (c) and (d). In reporting on the considerations described in subsection (d)(11), the President shall report any evidence that the crop eradication and crop substitution efforts of the beneficiary are directly related to the effects of this title.

SEC. 204. ELIGIBLE ARTICLES.

(a) IN GENERAL.—(1) Unless otherwise excluded from eligibility by this title, the duty-free treatment provided under this title shall apply to any article which is the growth, product, or manufacture of a beneficiary country if—

(A) that article is imported directly from a beneficiary country into the customs territory of the United States; and

(B) the sum of—

(i) the cost or value of the materials produced in a beneficiary country or 2 or more beneficiary countries under this Act, or a beneficiary country under the Caribbean Basin Economic Recovery Act or 2 or more such countries, plus

(ii) the direct costs of processing operations performed in a beneficiary country or countries (under this Act or the Caribbean Basin Economic Recovery Act),

is not less than 35 percent of the appraised value of such article at the time it is entered.

For purposes of determining the percentage referred to in subparagraph (B), the term "beneficiary country" includes the Commonwealth of Puerto Rico and the United States Virgin Islands. If the cost or value of materials produced in the customs territory of the United States (other than the Commonwealth of Puerto Rico) is included with respect to an article to which this paragraph applies, an amount not to exceed 15 percent of the appraised value of the article at the time it is entered that is attributed to such United States cost or value may be applied toward determining the percentage referred to in subparagraph (B).

(2) The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out subsection (a) including, but not limited to, regulations providing that, in order to be eligible for duty-free treatment under this title, an article must be wholly the growth, product, or manufacture of a beneficiary country, or must be a new or different article of commerce which has been grown, produced, or manufactured in the beneficiary country; but no article or material of a beneficiary country shall be eligible for such treatment by virtue of having merely undergone—

(A) simple combining or packaging operations, or

(B) mere dilution with water or mere dilution with another substance that does not materially alter the characteristics of the article.

(3) As used in this subsection, the phrase "direct costs of processing operations" includes, but is not limited to—

(A) all actual labor costs involved in the growth, production, manufacture, or assembly of the specific merchandise, including fringe benefits, on-the-job training and the cost of engineering, supervisory, quality control, and similar personnel; and

(B) dies, molds, tooling, and depreciation on machinery and equipment which are allocable to the specific merchandise.

Such phrase does not include costs which are not directly attributable to the merchandise concerned or are not costs of manufacturing the product, such as (i) profit, and (ii) general expense of doing business which are either not allocable to the specific merchandise or are not related to the growth, production, manufacture, or assembly of the merchandise, such as administrative salaries, casualty and liability insurance, advertising, interest, and salesmen's salaries, commissions or expenses.

(4) If the President, pursuant to section 223 of the Caribbean Basin Economic Recovery Expansion Act of 1990, considers that the implementation of revised rules of origin for products of beneficiary countries designated under the Caribbean Basin Economic Recovery Act (19 U.S.C. 2701 et seq.) would be appropriate, the President may include similarly revised rules of origin for products of beneficiary countries designated under this title in any suggested legislation transmitted to the Congress that contains such rules of origin for products of beneficiary countries under the Caribbean Basin Economic Recovery Act.

(b) EXCEPTIONS TO DUTY-FREE TREATMENT.—The duty-free treatment provided under this title shall not apply to—

(1) textile and apparel articles which are subject to textile agreements;

(2) footwear not designated at the time of the effective date of this Act as eligible for the purpose of the generalized system of preferences under title V of the Trade Act of 1974;

(3) tuna, prepared or preserved in any manner, in airtight containers;

(4) petroleum, or any product derived from petroleum, provided for in headings 2709 and 2710 of the HTS;

(5) watches and watch parts (including cases, bracelets and straps), of whatever type including, but not limited to, mechanical, quartz digital or quartz analog, if such watches or watch parts contain any material which is the product of any country with respect to which HTS column 2 rates of duty apply;

(6) articles to which reduced rates of duty apply under subsection (c);

(7) sugars, syrups, and molasses classified in subheadings 1701.11.03, 1701.12.02, 1701.99.02, 1702.90.32, 1806.10.42, and 2106.90.12 of the HTS; or

(8) rum and tafia classified in subheading 2208.40.00 of the HTS.

(c) DUTY REDUCTIONS FOR CERTAIN GOODS.—(1) Subject to paragraph (2), the President shall proclaim reductions in the rates of duty on handbags, luggage, flat goods, work gloves, and leather wearing apparel that—

(A) are the product of any beneficiary country; and

(B) were not designated on August 5, 1983, as eligible articles for purposes of the generalized system of preferences under title V of the Trade Act of 1974.

(2) The reduction required under paragraph (1) in the rate of duty on any article shall—

(A) result in a rate that is equal to 80 percent of the rate of duty that applies to the article on December 31, 1991, except that, subject to the limitations in paragraph (3), the reduction may not exceed 2.5 percent ad valorem; and

(B) be implemented in 5 equal annual stages with the first 1/5 of the aggregate reduction in the rate of duty being applied to entries, or withdrawals from warehouse for consumption, of the article on or after January 1, 1992.

(3) The reduction required under this subsection with respect to the rate of duty on any article is in addition to any reduction in the rate of duty on that article that may be proclaimed by the President as being required or appropriate to carry out any trade agreement entered into under the Uruguay Round of trade negotiations; except that if the reduction so proclaimed—

(A) is less than 1.5 percent ad valorem, the aggregate of such proclaimed reduction and the reduction under this subsection may not exceed 3.5 percent ad valorem, or

(B) is 1.5 percent ad valorem or greater, the aggregate of such proclaimed reduction and the reduction under this subsection may not exceed the proclaimed reduction plus 1 percent ad valorem.

(d) SUSPENSION OF DUTY-FREE TREATMENT.—(1) The President may by proclamation suspend the duty-free treatment provided by this title with respect to any eligible article and may proclaim a duty rate for such article if such action is proclaimed under chapter 1 of title II of the Trade Act of 1974 or section 232 of the Trade Expansion Act of 1962.

(2) In any report by the United States International Trade Commission to the President under section 202(f) of the Trade Act of 1974 regarding any article for which duty-free treatment has been proclaimed by the President pursuant to this title, the Commission shall state whether and to what extent its findings and recommendations apply to such article when imported from beneficiary countries.

(3) For purposes of section 203 of the Trade Act of 1974, the suspension of the duty-free treatment provided by this title shall be treated as an increase in duty.

(4) No proclamation providing solely for a suspension referred to in paragraph (3) of this subsection with respect to any article shall be taken under section 203 of the Trade Act of 1974 unless the United States International Trade Commission, in addition to making an affirmative determination with respect to such article under section 202(b) of the Trade Act of 1974, determines in the course of its investigation under such section that the serious injury (or threat thereof) substantially caused by imports to the domestic industry producing a like or directly competitive article results from the duty-free treatment provided by this title.

(5)(A) Any action taken under section 203 of the Trade Act of 1974 that is in effect when duty-free treatment is proclaimed under section 202 of this title shall remain in effect until modified or terminated.

(B) If any article is subject to any such action at the time duty-free treatment is proclaimed under section 202 of this title, the President may reduce or terminate the application of such action to the importation of such article from beneficiary countries prior to the otherwise scheduled date on which such reduction or termination would occur pursuant to the criteria and procedures of section 204 of the Trade Act of 1974.

(e) EMERGENCY RELIEF WITH RESPECT TO PERISHABLE PRODUCTS.—(1) If a petition is filed with the United States International Trade Commission pursuant to the provisions of section 201 of the Trade Act of 1974 regarding a perishable product and alleging injury from imports from beneficiary countries, then the petition may also be filed with the Secretary of Agriculture with a request that emergency relief be granted pursuant to paragraph (3) of this subsection with respect to such article.

(2) Within 14 days after the filing of a petition under paragraph (1) of this subsection—

> *(A) if the Secretary of Agriculture has reason to believe that a perishable product from a beneficiary country is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing a perishable product like or directly competitive with the imported product and that emergency*

action is warranted, he shall advise the President and recommend that the President take emergency action; or

(B) the Secretary of Agriculture shall publish a notice of his determination not to recommend the imposition of emergency action and so advise the petitioner.

(3) Within 7 days after the President receives a recommendation from the Secretary of Agriculture to take emergency action pursuant to paragraph (2) of this subsection, he shall issue a proclamation withdrawing the duty-free treatment provided by this title or publish a notice of his determination not to take emergency action.

(4) The emergency action provided by paragraph (3) of this subsection shall cease to apply—

(A) upon the taking of action under section 203 of the Trade Act of 1974,

(B) on the day a determination by the President not to take action under section 203(b)(2) of such Act becomes final,

(C) in the event of a report of the United States International Trade Commission containing a negative finding, on the day of the Commission's report is submitted to the President, or

(D) whenever the President determines that because of changed circumstances such relief is no longer warranted.

(5) For purposes of this subsection, the term "perishable product" means—

(A) live plants and fresh cut flowers provided for in chapter 6 of the HTS;

(B) fresh or chilled vegetables provided for in headings 0701 through 0709 (except subheading 0709.52.00) and heading 0714 of the HTS;

(C) fresh fruit provided for in subheadings 0804.20 through 0810.90 (except citrons of subheadings 0805.90.00, tamarinds and kiwi fruit of subheading 0810.90.20, and cashew apples, mameyes colorados, sapodillas, soursops and sweetsops of subheading 0810.90.40) of the HTS; or

(D) concentrated citrus fruit juice provided for in subheadings 2009.11.00, 2009.19.40, 2009.20.40, 2009.30.20, and 2009.30.60 of the HTS.

(f) SECTION 22 FEES.—No proclamation issued pursuant to this title shall affect fees imposed pursuant to section 22 of the Agricultural Adjustment Act of 1933 (7 U.S.C. 624).

SEC. 205. RELATED AMENDMENTS.

(a) INCREASE IN DUTY-FREE TOURIST ALLOWANCE.—Note 4 to subchapter IV of chapter 98 of the HTS is amended by inserting before the period the following: "or a country designated as a beneficiary country under the Andean Trade Preference Act".

(b) TREATMENT OF INSULAR POSSESSIONS PRODUCTS.—General Note 3(a)(iv) of the HTS (relating to products of the insular possessions) is amended by adding at the end thereof the following:

"(E) Subject to the provisions in section 204 of the Andean Trade Preference Act, goods which are imported from insular possessions of the United States shall receive duty treatment no less favorable than the treatment afforded such goods when they are imported from a beneficiary country under such Act.".

SEC. 206. INTERNATIONAL TRADE COMMISSION REPORTS ON IMPACT OF THE ANDEAN TRADE PREFERENCE ACT.

(a) IN GENERAL.—The United States International Trade Commission (hereinafter in this section referred to as the "Commission") shall prepare, and submit to the Congress, a report regarding the economic impact of this title on United States industries and consumers, and, in conjunction with other agencies, the effectiveness of this title in promoting drug-related crop eradication and crop substitution efforts of the beneficiary countries, during—

(1) the 24-month period beginning with the date of enactment of this title; and

(2) each calendar year occurring thereafter until duty-free treatment under this title is terminated under section 208(b).

For purposes of this section, industries in the Commonwealth of Puerto Rico and the insular possessions of the United States shall be considered to be United States industries.

(b) REPORT REQUIREMENTS.—(1) Each report required under subsection (a) shall include, but not be limited to, an assessment by the Commission regarding—

(A) the actual effect, during the period covered by the report, of this title on the United States economy generally as well as on those specific domestic industries which produce articles that are like, or directly competitive with, articles being imported into the United States from beneficiary countries;

(B) the probable future effect that this title will have on the United States economy generally, as well as on such domestic industries, before the provisions of this title terminate; and

(C) the estimated effect that this title has had on the drug-related crop eradication and crop substitution efforts of the beneficiary countries.

(2) In preparing the assessments required under paragraph (1), the Commission shall, to the extent practicable—

(A) analyze the production, trade and consumption of United States products affected by this title, taking into consideration employment, profit levels, and use of productive facilities with respect to the domestic industries concerned, and such other economic factors in such industries as it considers relevant, including prices, wages, sales, inventories, patterns of demand, capital investment, obsolescence of equipment, and diversification of production; and

(B) describe the nature and extent of any significant change in employment, profit levels, and use of productive facilities, and such other conditions as it deems relevant in the domestic industries concerned, which it believes are attributable to this title.

(c) SUBMISSION DATES; PUBLIC COMMENT.—(1) Each report required under subsection (a) shall be submitted to the Congress before the close of the 9-month period beginning on the day after the last day of the period covered by the report.

(2) The Commission shall provide an opportunity for the submission by the public, either orally or in writing, or both, of information relating to matters that will be addressed in the reports.

SEC. 207. IMPACT STUDY BY SECRETARY OF LABOR.

The Secretary of Labor, in consultation with other appropriate Federal agencies, shall undertake a continuing review and analysis of the impact that the implementation of the provisions of this title has with respect to United States labor; and shall make an annual written report to Congress on the results of such review and analysis.

SEC. 208. EFFECTIVE DATE AND TERMINATION OF DUTY-FREE TREATMENT.

(a) EFFECTIVE DATE.—This title shall take effect on the date of enactment.

(b) TERMINATION OF DUTY-FREE TREATMENT.—No duty-free treatment extended to beneficiary countries under this title shall remain in effect 10 years after the date of the enactment of this title.

TITLE III—CONTROL AND ELIMINATION OF CHEMICAL AND BIOLOGICAL WEAPONS

SEC. 301. SHORT TITLE.

This title may be cited as the "Chemical and Biological Weapons Control and Warfare Elimination Act of 1991".

SEC. 302. PURPOSES.

The purposes of this title are—

(1) to mandate United States sanctions, and to encourage international sanctions, against countries that use chemical or biological weapons in violation of international law or use lethal chemical or biological weapons against their own nationals, and to impose sanctions against companies that aid in the proliferation of chemical and biological weapons;

(2) to support multilaterally coordinated efforts to control the proliferation of chemical and biological weapons;

(3) to urge continued close cooperation with the Australia Group and cooperation with other supplier nations to devise ever more effective controls on the transfer of materials, equipment, and technology applicable to chemical or biological weapons production; and

(4) to require Presidential reports on efforts that threaten United States interests or regional stability by Iran, Iraq, Syria, Libya, and others to acquire the materials and technology to develop, produce, stockpile, deliver, transfer, or use chemical or biological weapons.

SEC. 303. MULTILATERAL EFFORTS.

(a) MULTILATERAL CONTROLS ON PROLIFERATION.—It is the policy of the United States to seek multilaterally coordinated efforts with other countries to control the proliferation of chemical and biological weapons. In furtherance of this policy, the United States shall—

(1) promote agreements banning the transfer of missiles suitable for armament with chemical or biological warheads;

(2) set as a top priority the early conclusion of a comprehensive global agreement banning the use, development, production, and stockpiling of chemical weapons;

(3) seek and support effective international means of monitoring and reporting regularly on commerce in equipment, materials, and technology applicable to the attainment of a chemical or biological weapons capability; and

(4) pursue and give full support to multilateral sanctions pursuant to United Nations Security Council Resolution 620, which declared the intention of the Security Council to give immediate consideration to imposing "appropriate and effective" sanctions against any country which uses chemical weapons in violation of international law.

(b) MULTILATERAL CONTROLS ON CHEMICAL AGENTS, PRECURSORS, AND EQUIPMENT.—It is also the policy of the United States to strengthen efforts to control chemical agents, precursors, and equipment by taking all appropriate multilateral diplomatic measures—

(1) to continue to seek a verifiable global ban on chemical weapons at the 40 nation Conference on Disarmament in Geneva;

(2) to support the Australia Group's objective to support the norms and restraints against the spread and the use of chemical warfare, to advance the negotiation of a comprehensive ban on chemical warfare by taking appropriate measures, and to protect the Australia Group's domestic industries against inadvertent association with supply of feedstock chemical equipment that could be misused to produce chemical weapons;

(3) to implement paragraph (2) by proposing steps complementary to, and not mutually exclusive of, existing multilateral efforts seeking a verifiable ban on chemical weapons, such as the establishment of—

(A) a harmonized list of export control rules and regulations to prevent relative commercial advantage and disadvantages accruing to Australia Group members,

(B) liaison officers to the Australia Group's coordinating entity from within the diplomatic missions,

(C) a close working relationship between the Australia Group and industry,

(D) a public unclassified warning list of controlled chemical agents, precursors, and equipment,

(E) information-exchange channels of suspected proliferants,

(F) a "denial" list of firms and individuals who violate the Australia Group's export control provisions, and

(G) broader cooperation between the Australia Group and other countries whose political commitment to stem the proliferation of chemical weapons is similar to that of the Australia Group; and

(4) to adopt the imposition of stricter controls on the export of chemical agents, precursors, and equipment and to adopt tougher multilateral sanctions against firms and individuals who violate these controls or against countries that use chemical weapons.

SEC. 304. UNITED STATES EXPORT CONTROLS.

(a) IN GENERAL.—The President shall—

(1) use the authorities of the Arms Export Control Act to control the export of those defense articles and defense services, and

(2) use the authorities of the Export Administration Act of 1979 to control the export of those goods and technology,

that the President determines would assist the government of any foreign country in acquiring the capability to develop, produce, stockpile, deliver, or use chemical or biological weapons.

(b) EXPORT ADMINISTRATION ACT.—Section 6 of the Export Administration Act of 1979 (50 U.S.C. App. 2405) is amended—

(1) by redesignating subsections (m) through (r) as subsections (n) through (s), respectively; and

(2) by inserting after subsection (l) the following:

"(m) CHEMICAL AND BIOLOGICAL WEAPONS.—

"(1) ESTABLISHMENT OF LIST.—The Secretary, in consultation with the Secretary of State, the Secretary of Defense, and the heads of other appropriate departments and agencies, shall establish and maintain, as part of the list maintained under this section, a list of goods and technology that would directly and substantially assist a foreign government or group in acquiring the capability to develop, produce, stockpile, or deliver chemical or biological weapons, the licensing of which would be effective in barring acquisition or enhancement of such capability.

"(2) REQUIREMENT FOR VALIDATED LICENSES.—The Secretary shall require a validated license for any export of goods or technology on the list established under paragraph (1) to any country of concern.

"(3) COUNTRIES OF CONCERN.—For purposes of paragraph (2), the term 'country of concern' means any country other than—

"(A) a country with whose government the United States has entered into a bilateral or multilateral arrangement for the control of goods or technology on the list established under paragraph (1); and

"(B) such other countries as the Secretary of State, in consultation with the Secretary and the Secretary of Defense, shall designate consistent with the purposes of the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991.".

SEC. 305. SANCTIONS AGAINST CERTAIN FOREIGN PERSONS.

(a) AMENDMENT TO EXPORT ADMINISTRATION ACT.—The Export Administration Act of 1979 is amended by inserting after section 11B the following:

"CHEMICAL AND BIOLOGICAL WEAPONS PROLIFERATION SANCTIONS

"SEC. 11C. (a) IMPOSITION OF SANCTIONS.—

"(1) DETERMINATION BY THE PRESIDENT.—Except as provided in subsection (b)(2), the President shall impose both of the sanctions described in subsection (c) if the President determines that a foreign person, on or after the date of the enactment of this section, has knowingly and materially contributed—

"(A) through the export from the United States of any goods or technology that are subject to the jurisdiction of the United States under this Act, or

"(B) through the export from any other country of any goods or technology that would be, if they were United States goods or technology, subject to the jurisdiction of the United States under this Act,

to the efforts by any foreign country, project, or entity described in paragraph (2) to use, develop, produce, stockpile, or otherwise acquire chemical or biological weapons.

"(2) COUNTRIES, PROJECTS, OR ENTITIES RECEIVING ASSISTANCE.—Paragraph (1) applies in the case of—

"(A) any foreign country that the President determines has, at any time after January 1, 1980—

"(i) used chemical or biological weapons in violation of international law;

"(ii) used lethal chemical or biological weapons against its own nationals; or

"(iii) made substantial preparations to engage in the activities described in clause (i) or (ii);

"(B) any foreign country whose government is determined for purposes of section 6(j) of this Act to be a government that has repeatedly provided support for acts of international terrorism; or

"(C) any other foreign country, project, or entity designated by the President for purposes of this section.

"(3) PERSONS AGAINST WHICH SANCTIONS ARE TO BE IMPOSED.—Sanctions shall be imposed pursuant to paragraph (1) on—

"(A) the foreign person with respect to which the President makes the determination described in that paragraph;

"(B) any successor entity to that foreign person;

"(C) any foreign person that is a parent or subsidiary of that foreign person if that parent or subsidiary knowingly assisted in the activities which were the basis of that determination; and

"(D) any foreign person that is an affiliate of that foreign person if that affiliate knowingly assisted in the activities which were the basis of that determination and if that affiliate is controlled in fact by that foreign person.

"(b) CONSULTATIONS WITH AND ACTIONS BY FOREIGN GOVERNMENT OF JURISDICTION.—

"(1) CONSULTATIONS.—If the President makes the determinations described in subsection (a)(1) with respect to a foreign person, the Congress urges the President to initiate consultations immediately with the government with primary jurisdiction over that foreign person with respect to the imposition of sanctions pursuant to this section.

"(2) ACTIONS BY GOVERNMENT OF JURISDICTION.—In order to pursue such consultations with that government, the President may delay imposition of sanctions pursuant to this section for a period of up to 90 days. Following these consultations, the President shall impose sanctions unless the President determines and certifies to the Congress that that government has taken specific and effective actions, including appropriate penalties, to terminate the involvement of the foreign person in the activities described in subsection (a)(1). The President may delay

imposition of sanctions for an additional period of up to 90 days if the President determines and certifies to the Congress that that government is in the process of taking the actions described in the preceding sentence.

"(3) REPORT TO CONGRESS.—The President shall report to the Congress, not later than 90 days after making a determination under subsection (a)(1), on the status of consultations with the appropriate government under this subsection, and the basis for any determination under paragraph (2) of this subsection that such government has taken specific corrective actions.

"(c) SANCTIONS.—

"(1) DESCRIPTION OF SANCTIONS.—The sanctions to be imposed pursuant to subsection (a)(1) are, except as provided in paragraph (2) of this subsection, the following:

"(A) PROCUREMENT SANCTION.—The United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from any person described in subsection (a)(3).

"(B) IMPORT SANCTIONS.—The importation into the United States of products produced by any person described in subsection (a)(3) shall be prohibited.

"(2) EXCEPTIONS.—The President shall not be required to apply or maintain sanctions under this section—

"(A) in the case of procurement of defense articles or defense services—

"(i) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy United States operational military requirements;

"(ii) if the President determines that the person or other entity to which the sanctions would otherwise be applied is a sole source supplier of the defense articles or services, that the defense articles or services are essential, and that alternative sources are not readily or reasonably available; or

"(iii) if the President determines that such articles or services are essential to the national security under defense coproduction agreements;

"(B) to products or services provided under contracts entered into before the date on which the President publishes his intention to impose sanctions;

"(C) to—

"(i) spare parts,

"(ii) component parts, but not finished products, essential to United States products or production, or

"(iii) routine servicing and maintenance of products, to the extent that alternative sources are not readily or reasonably available;

"(D) to information and technology essential to United States products or production; or

"(E) to medical or other humanitarian items.

"(d) TERMINATION OF SANCTIONS.—The sanctions imposed pursuant to this section shall apply for a period of at least 12 months following the imposition of sanctions and shall cease to apply there-

after only if the President determines and certifies to the Congress that reliable information indicates that the foreign person with respect to which the determination was made under subsection (a)(1) has ceased to aid or abet any foreign government, project, or entity in its efforts to acquire chemical or biological weapons capability as described in that subsection.

"(e) WAIVER.—

"(1) CRITERION FOR WAIVER.—The President may waive the application of any sanction imposed on any person pursuant to this section, after the end of the 12-month period beginning on the date on which that sanction was imposed on that person, if the President determines and certifies to the Congress that such waiver is important to the national security interests of the United States.

"(2) NOTIFICATION OF AND REPORT TO CONGRESS.—If the President decides to exercise the waiver authority provided in paragraph (1), the President shall so notify the Congress not less than 20 days before the waiver takes effect. Such notification shall include a report fully articulating the rationale and circumstances which led the President to exercise the waiver authority.

"(f) DEFINITION OF FOREIGN PERSON.—For the purposes of this section, the term 'foreign person' means—

"(1) an individual who is not a citizen of the United States or an alien admitted for permanent residence to the United States; or

"(2) a corporation, partnership, or other entity which is created or organized under the laws of a foreign country or which has its principal place of business outside the United States.".

(b) AMENDMENT TO ARMS EXPORT CONTROL ACT.—The Arms Export Control Act is amended by inserting after chapter 7 the following:

"CHAPTER 8—CHEMICAL OR BIOLOGICAL WEAPONS PROLIFERATION

"SEC. 81. SANCTIONS AGAINST CERTAIN FOREIGN PERSONS.

"(a) IMPOSITION OF SANCTIONS.—

"(1) DETERMINATION BY THE PRESIDENT.—Except as provided in subsection (b)(2), the President shall impose both of the sanctions described in subsection (c) if the President determines that a foreign person, on or after the date of the enactment of this section, has knowingly and materially contributed—

"(A) through the export from the United States of any goods or technology that are subject to the jurisdiction of the United States,

"(B) through the export from any other country of any goods or technology that would be, if they were United States goods or technology, subject to the jurisdiction of the United States, or

"(C) through any other transaction not subject to sanctions pursuant to the Export Administration Act of 1979,

to the efforts by any foreign country, project, or entity described in paragraph (2) to use, develop, produce, stockpile, or otherwise acquire chemical or biological weapons.

"(2) COUNTRIES, PROJECTS, OR ENTITIES RECEIVING ASSISTANCE.—Paragraph (1) applies in the case of—

"(A) any foreign country that the President determines has, at any time after January 1, 1980—

"(i) used chemical or biological weapons in violation of international law;

"(ii) used lethal chemical or biological weapons against its own nationals; or

"(iii) made substantial preparations to engage in the activities described in clause (i) or (ii);

"(B) any foreign country whose government is determined for purposes of section 6(j) of the Export Administration Act of 1979 (50 U.S.C. 2405(j)) to be a government that has repeatedly provided support for acts of international terrorism; or

"(C) any other foreign country, project, or entity designated by the President for purposes of this section.

"(3) PERSONS AGAINST WHOM SANCTIONS ARE TO BE IMPOSED.—Sanctions shall be imposed pursuant to paragraph (1) on—

"(A) the foreign person with respect to which the President makes the determination described in that paragraph;

"(B) any successor entity to that foreign person;

"(C) any foreign person that is a parent or subsidiary of that foreign person if that parent or subsidiary knowingly assisted in the activities which were the basis of that determination; and

"(D) any foreign person that is an affiliate of that foreign person if that affiliate knowingly assisted in the activities which were the basis of that determination and if that affiliate is controlled in fact by that foreign person.

"(b) CONSULTATIONS WITH AND ACTIONS BY FOREIGN GOVERNMENT OF JURISDICTION.—

"(1) CONSULTATIONS.—If the President makes the determinations described in subsection (a)(1) with respect to a foreign person, the Congress urges the President to initiate consultations immediately with the government with primary jurisdiction over that foreign person with respect to the imposition of sanctions pursuant to this section.

"(2) ACTIONS BY GOVERNMENT OF JURISDICTION.—In order to pursue such consultations with that government, the President may delay imposition of sanctions pursuant to this section for a period of up to 90 days. Following these consultations, the President shall impose sanctions unless the President determines and certifies to the Congress that that government has taken specific and effective actions, including appropriate penalties, to terminate the involvement of the foreign person in the activities described in subsection (a)(1). The President may delay imposition of sanctions for an additional period of up to 90 days if the President determines and certifies to the Congress

that that government is in the process of taking the actions described in the preceding sentence.

"(3) REPORT TO CONGRESS.—The President shall report to the Congress, not later than 90 days after making a determination under subsection (a)(1), on the status of consultations with the appropriate government under this subsection, and the basis for any determination under paragraph (2) of this subsection that such government has taken specific corrective actions.

"(c) SANCTIONS.—

"(1) DESCRIPTION OF SANCTIONS.—The sanctions to be imposed pursuant to subsection (a)(1) are, except as provided in paragraph (2) of this subsection, the following:

"(A) PROCUREMENT SANCTION.—The United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from any person described in subsection (a)(3).

"(B) IMPORT SANCTIONS.—The importation into the United States of products produced by any person described in subsection (a)(3) shall be prohibited.

"(2) EXCEPTIONS.—The President shall not be required to apply or maintain sanctions under this section—

"(A) in the case of procurement of defense articles or defense services—

"(i) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy United States operational military requirements;

"(ii) if the President determines that the person or other entity to which the sanctions would otherwise be applied is a sole source supplier of the defense articles or services, that the defense articles or services are essential, and that alternative sources are not readily or reasonably available; or

"(iii) if the President determines that such articles or services are essential to the national security under defense coproduction agreements;

"(B) to products or services provided under contracts entered into before the date on which the President publishes his intention to impose sanctions;

"(C) to—

"(i) spare parts,

"(ii) component parts, but not finished products, essential to United States products or production, or

"(iii) routine servicing and maintenance of products, to the extent that alternative sources are not readily or reasonably available;

"(D) to information and technology essential to United States products or production; or

"(E) to medical or other humanitarian items.

"(d) TERMINATION OF SANCTIONS.—The sanctions imposed pursuant to this section shall apply for a period of at least 12 months following the imposition of sanctions and shall cease to apply thereafter only if the President determines and certifies to the Congress that reliable information indicates that the foreign person with re-

spect to which the determination was made under subsection (a)(1) has ceased to aid or abet any foreign government, project, or entity in its efforts to acquire chemical or biological weapons capability as described in that subsection.

"(e) WAIVER.—

"(1) CRITERION FOR WAIVER.—The President may waive the application of any sanction imposed on any person pursuant to this section, after the end of the 12-month period beginning on the date on which that sanction was imposed on that person, if the President determines and certifies to the Congress that such waiver is important to the national security interests of the United States.

"(2) NOTIFICATION OF AND REPORT TO CONGRESS.—If the President decides to exercise the waiver authority provided in paragraph (1), the President shall so notify the Congress not less than 20 days before the waiver takes effect. Such notification shall include a report fully articulating the rationale and circumstances which led the President to exercise the waiver authority.

"(f) DEFINITION OF FOREIGN PERSON.—For the purposes of this section, the term 'foreign person' means—

"(1) an individual who is not a citizen of the United States or an alien admitted for permanent residence to the United States; or

"(2) a corporation, partnership, or other entity which is created or organized under the laws of a foreign country or which has its principal place of business outside the United States.".

SEC. 306. DETERMINATIONS REGARDING USE OF CHEMICAL OR BIOLOGICAL WEAPONS.

(a) DETERMINATION BY THE PRESIDENT.—

(1) WHEN DETERMINATION REQUIRED; NATURE OF DETERMINATION.—Whenever persuasive information becomes available to the executive branch indicating the substantial possibility that, on or after the date of the enactment of this title, the government of a foreign country has made substantial preparation to use or has used chemical or biological weapons, the President shall, within 60 days after the receipt of such information by the executive branch, determine whether that government, on or after such date of enactment, has used chemical or biological weapons in violation of international law or has used lethal chemical or biological weapons against its own nationals. Section 307 applies if the President determines that that government has so used chemical or biological weapons.

(2) MATTERS TO BE CONSIDERED.—In making the determination under paragraph (1), the President shall consider the following:

(A) All physical and circumstantial evidence available bearing on the possible use of such weapons.

(B) All information provided by alleged victims, witnesses, and independent observers.

(C) The extent of the availability of the weapons in question to the purported user.

(D) All official and unofficial statements bearing on the possible use of such weapons.

(E) Whether, and to what extent, the government in question is willing to honor a request from the Secretary General of the United Nations to grant timely access to a United Nations fact-finding team to investigate the possibility of chemical or biological weapons use or to grant such access to other legitimate outside parties.

(3) DETERMINATION TO BE REPORTED TO CONGRESS.—Upon making a determination under paragraph (1), the President shall promptly report that determination to the Congress. If the determination is that a foreign government had used chemical or biological weapons as described in that paragraph, the report shall specify the sanctions to be imposed pursuant to section 307.

(b) CONGRESSIONAL REQUESTS; REPORT.—

(1) REQUEST.—The Chairman of the Committee on Foreign Relations of the Senate (upon consultation with the ranking minority member of such committee) or the Chairman of the Committee on Foreign Affairs of the House of Representatives (upon consultation with the ranking minority member of such committee) may at any time request the President to consider whether a particular foreign government, on or after the date of the enactment of this title, has used chemical or biological weapons in violation of international law or has used lethal chemical or biological weapons against its own nationals.

(2) REPORT TO CONGRESS.—Not later than 60 days after receiving such a request, the President shall provide to the Chairman of the Committee on Foreign Relations of the Senate and the Chairman of the Committee on Foreign Affairs of the House of Representatives a written report on the information held by the executive branch which is pertinent to the issue of whether the specified government, on or after the date of the enactment of this title, has used chemical or biological weapons in violation of international law or has used lethal chemical or biological weapons against its own nationals. This report shall contain an analysis of each of the items enumerated in subsection (a)(2).

SEC. 307. SANCTIONS AGAINST USE OF CHEMICAL OR BIOLOGICAL WEAPONS.

(a) INITIAL SANCTIONS.—If, at any time, the President makes a determination pursuant to section 306(a)(1) with respect to the government of a foreign country, the President shall forthwith impose the following sanctions:

(1) FOREIGN ASSISTANCE.—The United States Government shall terminate assistance to that country under the Foreign Assistance Act of 1961, except for urgent humanitarian assistance and food or other agricultural commodities or products.

(2) ARMS SALES.—The United States Government shall terminate—

(A) sales to that country under the Arms Export Control Act of any defense articles, defense services, or design and construction services, and

(B) licenses for the export to that country of any item on the United States Munitions List.

(3) ARMS SALES FINANCING.—The United States Government shall terminate all foreign military financing for that country under the Arms Export Control Act.

(4) DENIAL OF UNITED STATES GOVERNMENT CREDIT OR OTHER FINANCIAL ASSISTANCE.—The United States Government shall deny to that country any credit, credit guarantees, or other financial assistance by any department, agency, or instrumentality of the United States Government, including the Export-Import Bank of the United States.

(5) EXPORTS OF NATIONAL SECURITY-SENSITIVE GOODS AND TECHNOLOGY.—The authorities of section 6 of the Export Administration Act of 1979 (50 U.S.C. 2405) shall be used to prohibit the export to that country of any goods or technology on that part of the control list established under section 5(c)(1) of that Act (22 U.S.C. 2404(c)(1)).

(b) ADDITIONAL SANCTIONS IF CERTAIN CONDITIONS NOT MET.—

(1) PRESIDENTIAL DETERMINATION.—Unless, within 3 months after making a determination pursuant to section 306(a)(1) with respect to a foreign government, the President determines and certifies in writing to the Congress that—

(A) that government is no longer using chemical or biological weapons in violation of international law or using lethal chemical or biological weapons against its own nationals,

(B) that government has provided reliable assurances that it will not in the future engage in any such activities, and

(C) that government is willing to allow on-site inspections by United Nations observers or other internationally recognized, impartial observers, or other reliable means exist, to ensure that that government is not using chemical or biological weapons in violation of international law and is not using lethal chemical or biological weapons against its own nationals,

then the President, after consultation with the Congress, shall impose on that country the sanctions set forth in at least 3 of subparagraphs (A) through (F) of paragraph (2).

(2) SANCTIONS.—The sanctions referred to in paragraph (1) are the following:

(A) MULTILATERAL DEVELOPMENT BANK ASSISTANCE.—The United States Government shall oppose, in accordance with section 701 of the International Financial Institutions Act (22 U.S.C. 262d), the extension of any loan or financial or technical assistance to that country by international financial institutions.

(B) BANK LOANS.—The United States Government shall prohibit any United States bank from making any loan or providing any credit to the government of that country, except for loans or credits for the purpose of purchasing food or other agricultural commodities or products.

(C) FURTHER EXPORT RESTRICTIONS.—The authorities of section 6 of the Export Administration Act of 1979 shall be

used to prohibit exports to that country of all other goods and technology (excluding food and other agricultural commodities and products).

(D) IMPORT RESTRICTIONS.—Restrictions shall be imposed on the importation into the United States of articles (which may include petroleum or any petroleum product) that are the growth, product, or manufacture of that country.

(E) DIPLOMATIC RELATIONS.—The President shall use his constitutional authorities to downgrade or suspend diplomatic relations between the United States and the government of that country.

(F) PRESIDENTIAL ACTION REGARDING AVIATION.—(i)(I) The President is authorized to notify the government of a country with respect to which the President has made a determination pursuant to section 306(a)(1) of his intention to suspend the authority of foreign air carriers owned or controlled by the government of that country to engage in foreign air transportation to or from the United States.

(II) Within 10 days after the date of notification of a government under subclause (I), the Secretary of Transportation shall take all steps necessary to suspend at the earliest possible date the authority of any foreign air carrier owned or controlled, directly or indirectly, by that government to engage in foreign air transportation to or from the United States, notwithstanding any agreement relating to air services.

(ii)(I) The President may direct the Secretary of State to terminate any air service agreement between the United States and a country with respect to which the President has made a determination pursuant to section 306(a)(1), in accordance with the provisions of that agreement.

(II) Upon termination of an agreement under this clause, the Secretary of Transportation shall take such steps as may be necessary to revoke at the earliest possible date the right of any foreign air carrier owned, or controlled, directly or indirectly, by the government of that country to engage in foreign air transportation to or from the United States.

(iii) The Secretary of Transportation may provide for such exceptions from clauses (i) and (ii) as the Secretary considers necessary to provide for emergencies in which the safety of an aircraft or its crew or passengers is threatened.

(iv) For purposes of this subparagraph, the terms "air transportation", "air carrier", "foreign air carrier", and "foreign air transportation" have the meanings such terms have under section 101 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301).

(c) REMOVAL OF SANCTIONS.—The President shall remove the sanctions imposed with respect to a country pursuant to this section if the President determines and so certifies to the Congress, after the end of the 12-month period beginning on the date on which sanctions were initially imposed on that country pursuant to subsection (a), that—

(1) the government of that country has provided reliable assurances that it will not use chemical or biological weapons in

violation of international law and will not use lethal chemical or biological weapons against its own nationals;

(2) that government is not making preparations to use chemical or biological weapons in violation of international law or to use lethal chemical or biological weapons against its own nationals;

(3) that government is willing to allow on-site inspections by United Nations observers or other internationally recognized, impartial observers to verify that it is not making preparations to use chemical or biological weapons in violation of international law or to use lethal chemical or biological weapons against its own nationals, or other reliable means exist to verify that it is not making such preparations; and

(4) that government is making restitution to those affected by any use of chemical or biological weapons in violation of international law or by any use of lethal chemical or biological weapons against its own nationals.

(d) WAIVER.—

(1) CRITERIA FOR WAIVER.—The President may waive the application of any sanction imposed with respect to a country pursuant to this section—

(A) if—

(i) in the case of any sanction other than a sanction specified in subsection (b)(2)(D) (relating to import restrictions) or (b)(2)(E) (relating to the downgrading or suspension of diplomatic relations), the President determines and certifies to the Congress that such waiver is essential to the national security interests of the United States, and if the President notifies the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives of his determination and certification at least 15 days before the waiver takes effect, in accordance with the procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961, or

(ii) in the case of any sanction specified in subsection (b)(2)(D) (relating to import restrictions), the President determines and certifies to the Congress that such waiver is essential to the national security interest of the United States, and if the President notifies the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives of his determination and certification at least 15 days before the waiver takes effect; or

(B) if the President determines and certifies to the Congress that there has been a fundamental change in the leadership and policies of the government of that country, and if the President notifies the Congress at least 20 days before the waiver takes effect.

(2) REPORT.—In the event that the President decides to exercise the waiver authority provided in paragraph (1) with respect to a country, the President's notification to the Congress under such paragraph shall include a report fully articulating the rationale and circumstances which led the President to exercise

that waiver authority, including a description of the steps which the government of that country has taken to satisfy the conditions set forth in paragraphs (1) through (4) of subsection (c).

(e) CONTRACT SANCTITY.—

(1) SANCTIONS NOT APPLIED TO EXISTING CONTRACTS.—(A) A sanction described in paragraph (4) or (5) of subsection (a) or in any of subparagraphs (A) through (D) of subsection (b)(2) shall not apply to any activity pursuant to any contract or international agreement entered into before the date of the presidential determination under section 306(a)(1) unless the President determines, on a case-by-case basis, that to apply such sanction to that activity would prevent the performance of a contract or agreement that would have the effect of assisting a country in using chemical or biological weapons in violation of international law or in using lethal chemical or biological weapons against its own nationals.

(B) The same restrictions of subsection (p) of section 6 of the Export Administration Act of 1979 (50 U.S.C. App. 2405), as that subsection is so redesignated by section 304(b) of this title, which are applicable to exports prohibited under section 6 of that Act shall apply to exports prohibited under subsection (a)(5) or (b)(2)(C) of this section. For purposes of this subparagraph, any contract or agreement the performance of which (as determined by the President) would have the effect of assisting a foreign government in using chemical or biological weapons in violation of international law or in using lethal chemical or biological weapons against its own nationals shall be treated as constituting a breach of the peace that poses a serious and direct threat to the strategic interest of the United States, within the meaning of subparagraph (A) of section 6(p) of that Act.

(2) SANCTIONS APPLIED TO EXISTING CONTRACTS.—The sanctions described in paragraphs (1), (2), and (3) of subsection (a) shall apply to contracts, agreements, and licenses without regard to the date the contract or agreement was entered into or the license was issued (as the case may be), except that such sanctions shall not apply to any contract or agreement entered into or license issued before the date of the presidential determination under section 306(a)(1) if the President determines that the application of such sanction would be detrimental to the national security interests of the United States.

SEC. 308. PRESIDENTIAL REPORTING REQUIREMENTS.

(a) REPORTS TO CONGRESS.—Not later than 90 days after the date of the enactment of this title, and every 12 months thereafter, the President shall transmit to the Congress a report which shall include—

(1) a description of the actions taken to carry out this title, including the amendments made by this title;

(2) a description of the current efforts of foreign countries and subnational groups to acquire equipment, materials, or technology to develop, produce, or use chemical or biological weapons, together with an assessment of the current and likely future ca-

pabilities of such countries and groups to develop, produce, stockpile, deliver, transfer, or use such weapons;

(3) a description of—

(A) the use of chemical weapons by foreign countries in violation of international law,

(B) the use of chemical weapons by subnational groups,

(C) substantial preparations by foreign countries and subnational groups to do so, and

(D) the development, production, stockpiling, or use of biological weapons by foreign countries and subnational groups; and

(4) a description of the extent to which foreign persons or governments have knowingly and materially assisted third countries or subnational groups to acquire equipment, material, or technology intended to develop, produce, or use chemical or biological weapons.

(b) PROTECTION OF CLASSIFIED INFORMATION.—To the extent practicable, reports submitted under subsection (a) or any other provision of this title should be based on unclassified information. Portions of such reports may be classified.

SEC. 309. REPEAL OF DUPLICATIVE PROVISIONS.

(a) REPEAL.—Title V of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138), and the amendments made by that title, are repealed.

(b) REFERENCES TO DATE OF ENACTMENT.—The reference—

(1) in section 11C(a)(1) of the Export Administration Act of 1979, as added by section 305(a) of this Act, to the "date of the enactment of this section",

(2) in section 81(a)(1) of the Arms Export Control Act, as added by section 305(b) of this Act, to the "date of the enactment of this section", and

(3) in section 306(a)(1) of this Act to the "date of the enactment of this title",

shall be deemed to refer to the date of the enactment of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138).

And the House agree to the same.

DAN ROSTENKOWSKI,
SAM GIBBONS,
Managers on the Part of the House.

LLOYD BENTSEN,
BOB PACKWOOD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the amendment of the Senate to the text of the bill (H.R. 1724) to provide for the termination of the application of title IV of the Trade Act of 1974 to Czechoslovakia and Hungary, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment to the text of the bill inserted a new section at the end of the bill.

The House agreed to the Senate amendment with an amendment which inserted after the matter inserted by the Senate the combined texts of H.R. 3347, H.R. 3313, H.R. 661, and H.R. 3409 as reported to the House.

The Senate recedes from its disagreement to the amendment of the House inserting the texts of H.R. 3347, H.R. 3313, H.R. 661, and H.R. 3409, with an amendment to the text of H.R. 3409. The House recedes to the amendment of the Senate. The differences between the text of the bill as amended by the Senate, the House amendment, and the amendment agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TERMINATION OF THE APPLICATION OF TITLE IV OF THE TRADE ACT OF 1974 TO CZECHOSLOVAKIA AND HUNGARY

(Sections 1 and 2 of House bill; sections 1 and 2 of House bill as amended by Senate; sections 1 and 2 of conference agreement.)

CONGRESSIONAL FINDINGS AND PREPARATORY PRESIDENTIAL ACTION

(Section 1 of House bill; section 1 of House bill as amended by Senate; section 1 of conference agreement.)

Present Law

No provision.

House Bill

Section 1 contains Congressional findings and notes preparatory Presidential action. Subsection (a) makes a number of findings related to Hungary's and Czechoslovakia's respect for fundamental human rights; their policies of free emigration for their citizens; and the political and economic reforms undertaken by both countries. Subsection (b) notes that the President, in anticipation of the

enactment of the bill, has directed the U.S. Trade Representative to negotiate with both countries to preserve the commitments contained in the bilateral commercial agreements that are consistent with the General Agreement on Tariffs and Trade; and to obtain other appropriate commitments.

House Bill as Amended by Senate

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

TERMINATION OF APPLICATION OF TITLE IV OF THE TRADE ACT OF 1974 TO CZECHOSLOVAKIA AND HUNGARY

(Section 2 of House bill; section 2 of House bill as amended by Senate; section 2 of conference agreement.)

Present Law

Title IV of the Trade Act of 1974, as amended by the Customs and Trade Act of 1990, sets forth three requirements relating to freedom of emigration which must be met, or waived by the President, in order for the President to grant nondiscriminatory, most-favored-nation (MFN) status to a nonmarket economy country. Title IV also requires that a trade agreement providing MFN status remain in force between the United States and the nonmarket economy country receiving MFN status and sets forth minimum provisions which must be included in such an agreement.

Presidential waivers and reports under Title IV—and thus a country's MFN status—are subject to disapproval by Congress. If the President determines that a country is in full compliance with the Jackson-Vanik freedom of emigration requirements, section 402(b) requires that he submit a report to the Congress by June 30 and December 31 of each year that such country receives MFN treatment, describing the nature of the country's emigration laws and policies. The country's MFN status may be revoked, if a joint resolution disapproving the December 31 compliance report is enacted into law within 90 legislative days of the delivery of the report to Congress. If such a resolution is enacted, the country's MFN status is rescinded, effective 60 calendar days after enactment.

Annual Presidential recommendations under section 402(d) for a 12-month extension of authority to waive Jackson-Vanik freedom of emigration requirements (either generally or for specific countries) are subject to a joint resolution of disapproval passed by the Congress within 60 calendar days after expiration of the previous waiver extension. An additional 15 legislative days, following the 60 calendar day period for initial passage, is available for consideration of any veto message. If such a resolution is enacted, the country's MFN status is rescinded, effective 60 calendar days after enactment.

House Bill

Section 2 provides for the termination of application of Title IV of the Trade Act of 1974 to Czechoslovakia and Hungary. Subsection (a) authorizes the President to determine that such title should no longer apply to Hungary or Czechoslovakia, or to both; and after making such a determination, proclaim the extension of nondiscriminatory, MFN treatment to the products of that country. Subsection (b) provides that after the extension under subsection (a) of MFN treatment to the products of a country, Title IV of the Trade Act of 1974 shall cease to apply to that country.

House Bill as Amended by Senate

Identical provision.

Conference Agreement

The conferees agree to both the House and Senate provisions.

AMENDMENTS TO THE EMERGENCY UNEMPLOYMENT COMPENSATION ACT OF 1991

(Section 3 of House bill as amended by Senate; section 3 of conference agreement.)

Present Law

All States are eligible to provide Emergency Unemployment Compensation (EUC) benefits to unemployed workers who have exhausted their unemployment benefits under existing programs. These benefits are available between November 17, 1991, and July 4, 1992.

There are three levels of weeks of eligibility for EUC benefits. The number of weeks of benefits payable to an unemployed worker in a particular State is determined by combinations of State adjusted insured unemployment rates (AIURs), exhaustion rates (ERs), and total unemployment rates (TURs). All rates are rounded to the nearest tenth of a percentage point. For example, 2.95 percent would be rounded to 3.0 percent.

The AIUR for a State is the insured unemployment rate for a given month plus the number of workers who have exhausted their regular State benefits in the last three months added to the numerator.

The ER is the percentage obtained by dividing the average monthly number of workers who have exhausted their regular State benefits during the last 12 months by the average monthly number of individuals filing initial claims for regular State benefits during the last 12-month period ending 6 months earlier. (For the reachback and initial benefit periods an eight-month average ending with September was used.)

The TUR is the percentage obtained from the ratio of all unemployed workers to all workers in the labor force in that State during the last six months for which data are published.

States can receive 6, 13, or 20 weeks as follows:

All States get at least 6 weeks.

States with AIURs of at least 4 percent *or* AIURs of at least 2.5 percent *and* exhaustion rates of at least 29 percent get at least 13 weeks.

States with AIURs of at least 5 percent or TURs of at least 9 percent get 20 weeks.

Once a State has "triggered on" for a 6, 13, or 20 week period of EUC benefits, the State remains triggered on that tier for at least 13 weeks, even if it drops to a lower tier during that period. Alternatively, if a State's moves to a higher teir during that period, workers in that State qualify for the additional benefits.

Also, once an unemployed worker becomes eligible for 6, 13, or 20 weeks of EUC benefits, the worker is paid for all weeks to which he is entitled, even if the State drops to a lower tier or the program expires before the worker has received the full number of weeks of benefits.

Unemployed workers who have exhausted their benefits under the regular unemployment program between March 1 and November 16 are eligible to receive EUC benefits in States which qualify as 13- or 20-week States or which had AIURs of at least 3 percent. Qualifying States are eligible for a minimum of 6 weeks of "reachback" benefits, however, States on the second and third tiers are eligible to pay for 13 or 20 weeks, respectively.

House Bill

No provision.

Senate Amendment

The Senate amendment replaces the three tier system of 20, 13, and 6 weeks of emergency unemployment compensation with a two tier system of 20 and 13 weeks. The 9 States and Puerto Rico with total unemployment rates of at least 9 percent or adjusted insured unemployment rates of at lest 5 percent still would receive 20 weeks of benefits. The other 41 States and the District of Columbia and Virgin Islands would receive 13 weeks of benefits. In addition, reachback coverage would be added for all States so that the 18 States and the Virgin Islands that do not currently receive these benefits would become eligible to provide them. Finally, the expiration date of the program would change from July 4, 1992, to June 13, 1992.

Conference Agreement

The conferees agree to the Senate amendment.

Repeal of the Prohibition on the Importation of Soviet Gold Coins

(Section 4 of House amendment; section 4 of conference agreement.)

Present Law

Section 510 of the Comprehensive Anti-Apartheid Act of 1986 prohibits the importation into the United States by any person, including a bank, of any gold coins minted in the Union of Soviet Socialist Republics (USSR) or offered for sale by the Government of

the USSR. Any individual who violates the prohibition or implementing regulations is subject to a fine of not more than five times the value of the gold coins involved.

Imports of gold coins enter the United States duty-free.

House Amendment

Section 4 repeals section 510 of the Comprehensive Anti-Apartheid Act of 1986.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

EXTENSION OF NONDISCRIMINATORY TREATMENT TO ESTONIA, LATVIA, AND LITHUANIA

(Title I of House amendment; Title I of conference agreement.)

CONGRESSIONAL FINDINGS

(Section 101 of House amendment; section 101 of conference agreement.)

Present Law

No provision.

House Amendment

Section 101 makes a number of findings relating to the history of U.S. diplomatic relations with the Baltic states; their forcible incorporation into the Soviet Union in 1940; and their successful efforts to restore their independence from the Soviet Union, which occurred on September 6, 1991.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

EXTENSION OF NONDISCRIMINATORY TREATMENT TO THE PRODUCTS OF ESTONIA, LATVIA, AND LITHUANIA

(Section 102 of House amendment; section 102 of conference agreement.)

Present Law

The law governing U.S. trade relations with nonmarket economy counties is Title IV of the Trade Act of 1974 (the so-called Jackson-Vanik amendment), as amended by the Customs and Trade Act of 1990. That title requires the President to deny MFN status to those nonmarket economy countries which did not receive such status on the date of enactment. Because Estonia, Latvia, and Lithuania on the date of enactment were under the forcible control of the Soviet Union, this prohibition applied to those states.

Title IV also authorizes the President to extend MFN status to a nonmarket economy country, if that country meets three requirements relating to the freedom of emigration of its citizens. Alternatively, the President may waive those requirements and extend MFN status on an annual basis to a nonmarket economy country, subject to disapproval by Congress. Finally, Title IV requires that a trade agreement providing MFN status remain in force between the United States and the nonmarket economy country receiving MFN status; and it sets forth minimum provisions which must be included in such an agreement.

General Note 3(b) of the Harmonized Tariff Schedule of the United States includes Estonia, Latvia, and Lithuania on the list of countries subject to Column 2 (non-MFN) rates of duty.

House Amendment

Section 102 applies nondiscriminatory, MFN treatment to the products of Estonia, Latvia, and Lithuania, notwithstanding Title IV or any other provision of law. It amends General Note 3(b) to remove these three countries from the application of Column 2 (non-MFN) rates of duty.

These provisions apply with respect to goods imported on or after the 15th day after the date of enactment of the Act.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

TERMINATION OF APPLICATION OF TITLE IV OF THE TRADE ACT OF 1974 TO THE BALTICS

(Section 103 of House amendment; section 103 of conference agreement.)

Present Law

Title IV of the Trade Act of 1974, as amended, has applied to Estonia, Latvia, and Lithuania by virtue of their forcible incorporation into the Soviet Union in 1940.

House Amendment

Section 103 provides that title IV shall cease to apply to Estonia, Latvia, and Lithuania, effective as of the 15th day after the date of enactment.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

SENSE OF THE CONGRESS REGARDING PROMPT PROVISION OF GSP TREATMENT TO THE PRODUCTS OF ESTONIA, LATVIA, AND LITHUANIA

(Section 104 of House amendment; section 104 of conference agreement.)

Present Law

Title V of the Trade Act of 1974 authorizes the President to provide duty-free, Generalized System of Preferences (GSP) treatment to any eligible article from designated beneficiary developing countries, subject to certain conditions and limitations. Under Section 502, the President is prohibited from designating as beneficiary developing countries certain specified developed countries, including the Soviet Union; communist countries unless certain criteria are satisfied; and countries which do not meet other specified criteria. Because Estonia, Latvia, and Lithuania are now independent of the Soviet Union, they are eligible for GSP benefits, subject to the criteria of Title V.

House Amendment

Section 104 expresses the sense of the Congress that the President should take prompt action under Title V to provide GSP benefits to the products of Estonia, Latvia, and Lithuania.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

TRADE PREFERENCE FOR THE ANDEAN REGION

(Title II of House amendment.)

SHORT TITLE

(Section 201 of House amendment.)

Present Law

No provision.

House Amendment

Section 201 provides that the title may be cited as the "Andean Trade Preference Act" (ATPA).

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

AUTHORITY TO GRANT DUTY-FREE TREATMENT

(Section 202 of House amendment.)

Present Law

Bolivia, Ecuador, Colombia, and Peru receive most-favored-nation, column 1 rate of duty treatment and are designated as beneficiary countries for duty-free treatment on eligible articles under the Generalized System of Preferences (GSP) program.

House Amendment

Section 202 authorizes the President to proclaim duty-free treatment for all eligible articles from any beneficiary country in accordance with the provisions of the ATPA.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

BENEFICIARY COUNTRY

(Section 203 of House amendment.)

Present Law

No provision. The designation authority and criteria that apply under section 212 (b) and (c) of the Caribbean Basin Economic Recovery Act (CBERA) to beneficiary countries under the Caribbean Basin Initiative (CBI) program, are nearly identical to the provisions of section 203. Section 212 of the CBERA has similar withdrawal and suspension authorities and notification and reporting requirements with respect to CBI beneficiary countries.

House Amendment

Section 203 authorizes the President to consider only Bolivia, Ecuador, Colombia, and Peru for designation as beneficiary countries under the ATPA. Before designating any country, the President must notify the Congress of his intention to make the designation, together with the considerations entering into the decision. Designation by the President of a country as a beneficiary country is subject to 7 specific conditions, most of which are subject to waiver if he determines that designation of the country will be in the national economic or security interest of the United States and reports that determination and the reasons therefor to the Congress. The President must also take 12 other specific factors into account in designating any beneficiary country.

The President may withdraw or suspend beneficiary country status or duty-free treatment on any article of any beneficiary country if he determines after designation that the country should be barred from designation because of changed circumstances. The President must submit to the Congress every 3 years a complete report on the operation of the ATPA.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

ELIGIBLE ARTICLES

(Section 204 of House amendment.)

Present Law

Imports from the Andean countries are subject to normal customs provisions for determining origin, except that articles eligible for duty-free treatment under the GSP program are subject to the rules-of-origin specified under section 503 of the Trade Act of 1974. The rule-of-origin requirements for duty-free treatment under the ATPA are nearly identical to the requirements under section 213(a) of the CBERA for determining origin under the CBI program.

Section 223 of the CBERA provides that if the President considers that implementation of revised rules of origin for products of CBI beneficiary countries would be appropriate, he shall transmit such legislation to the Congress, after taking into account a report and recommendations of the U.S. International Trade Commission (ITC) and advice from various sources.

The product exclusions from eligibility for duty-free treatment and the duty reductions on imports of certain leather products under the CBI program are identical to the ATPA, except that rum is eligible for duty-free treatment under the CBERA.

Additional U.S. Notes 2, 3, and 4 of Chapter 17 of the Harmonized Tariff Schedule of the United States (HTS) authorize the imposition of duties or quotas on imports of sugars, syrups, and molasses. Presidential Proclamation 6179, signed on September 13, 1990, provided for the establishment of tariff-rate quotas on sugar imports beginning on October 1, 1990, to replace the system of absolute quotas. Under the tariff-rate quota system, the Secretary of Agriculture announces a quantity of sugar that will be subject to current tariff rates (the "lower tier" tariff rate), which is then allocated among country suppliers. Any additional quantities of sugar above these allocated amounts are subject to a tariff rate of 16 cents per pound, raw value (the "upper tier" tariff rate). GSP and CBI beneficiary countries are eligible to receive duty-free treatment on the quantities of sugar permitted entry at the lower tier tariff rate. All four Andean countries currently have sugar import allocations subject to GSP duty-free treatment.

The CBI program contains identical authorities for granting import relief and taking emergency action on agricultural perishable products.

House Amendment

Section 204 requires duty-free treatment on any article, not otherwise excluded from eligibility, which is the growth, product, or manufacture of a beneficiary country if (1) that article is imported directly from a beneficiary country into the U.S. customs territory; and (2) the sum of (a) the cost or value of materials produced in one or more Andean beneficiary countries or one or more CBI beneficiary countries, plus (b) the direct costs of processing operations performed in one or more Andean or CBI beneficiary countries is not

less than 35 percent of the appraised value of the article (which may include Puerto Rico and Virgin Islands content and up to 15 percent of the value of U.S. content). Section 204 also specifies requirements which the Secretary of the Treasury must prescribe in regulations. The President may include revised rules of origin for duty-free treatment under the ATPA similar to revised rules for CBI duty-free treatment in any suggested legislation submitted to the Congress pursuant to section 223 of the CBERA.

Section 204 excludes from eligibility for duty-free treatment: (1) Textiles and apparel articles, which are subject to textile agreements; (2) footwear ineligible for GSP duty-free treatment; (3) canned tuna; (4) petroleum or petroleum products; (5) certain watches and watch parts; (6) handbags, luggage, flat goods, work gloves, and leather wearing apparel ineligible for GSP duty-free treatment, which are subject to 20 percent duty reductions not to exceed 2.5 percent ad valorem implemented over 5 years; (7) sugars, syrups, and molasses subject to over-quota rates of duty; and (8) rum.

The President may suspend duty-free treatment on any eligible article under import relief or national security authorities. In any report to the President on an import relief investigation involving a duty-free article under the ATPA, the ITC must state whether and to what extent its injury findings and remedy recommendations apply to imports from beneficiary countries. Under emergency relief provisions for imports of perishable agricultural products, within 7 days after receiving a recommendation from the Secretary of Agriculture (within 14 days after the filing of a petition) that emergency action is warranted, the President must withdraw duty-free treatment or determine not to take emergency action. No proclamation under the ATPA shall affect fees imposed pursuant to section 22 of the Agricultural Adjustment Act of 1933.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

RELATED AMENDMENTS

(Section 205 of House amendment.)

Present Law

Note 4 and tariff items under subchapter IV of chapter 98 of the HTS provide a duty-free tourist allowance to returning U.S. residents arriving directly or indirectly from foreign countries (including Andean countries) of $400, or $600 in the case of CBI beneficiary countries. U.S. residents returning from foreign countries may bring in not more than one liter of alcoholic beverages duty-free and excise-tax free; residents returning from CBI beneficiary countries may enter one additional liter duty-free if produced in a CBI beneficiary country.

General Note 3(a)(iv) of the HTS provides that goods imported from U.S. insular possessions shall receive no less favorable duty

treatment than accorded to eligible articles imported from beneficiary countries under the GSP or CBI programs.

House Amendment

Section 205 increases the duty-free tourist allowances for U.S. residents returning directly or indirectly from Andean beneficiary countries from $400 to $600 and for one additional liter of alcoholic beverages if produced in an Andean country.

Goods imported from U.S. insular possessions will receive duty treatment no less favorable than the treatment afforded such goods imported from a beneficiary country under the ATPA.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

INTERNATIONAL TRADE COMMISSION REPORTS ON IMPACT OF THE ANDEAN TRADE PREFERENCE ACT

(Section 206 of House amendment.)

Present Law

No provision. Section 215 of the CBERA requires a similar report by the ITC with respect to the CBI program.

House Amendment

Section 206 requires the ITC to prepare and submit to the Congress a report on the economic impact of the ATPA on U.S. industries and consumers and on the effectiveness of duty-free treatment in promoting drug-related crop eradication and crop substitution efforts of the beneficiary countries, initially on the first two years of the program and annually thereafter.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

IMPACT STUDY BY SECRETARY OF LABOR

(Section 207 of House amendment.)

Present law

No provision. Section 216 of the CBERA contains an identical requirement with respect to the CBI program.

House Amendment

Section 207 requires the Secretary of Labor to make an annual report to the Congress of its review and analysis of the impact of the ATPA on U.S. labor.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

EFFECTIVE DATE AND TERMINATION OF DUTY-FREE TREATMENT

(Section 208 of House amendment.)

Present Law

No provision.

House Amendment

Section 208 provides that the ATPA takes effect on the date of enactment, and that duty-free treatment terminates 10 years after the date of enactment.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

CONTROL AND ELIMINATION OF CHEMICAL AND BIOLOGICAL WEAPONS

(Title III of House amendment; Title III of conference agreement.)

SHORT TITLE

(Section 301 of House amendment; section 301 of conference agreement.)

Present Law

Title V of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138) entitles the provisions of that title the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991.

House Amendment

Same as present law.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

PURPOSES

(Section 302 of House amendment; section 302 of conference agreement.)

Present Law

Title V of Public Law 102–138 states the purposes of the title as mandating U.S. sanctions and encouraging international sanctions against chemical and biological weapons (CBW) country violators, supporting multilateral proliferation controls, urging cooperation with the Australia Group and other suppliers' groups, and requiring Presidential reports on chemical and biological weapons proliferation.

House Amendment

Same as present law.

Senate Amendment.

No provision.

Conference Agreement

The Senate recedes.

MULTILATERAL EFFORTS

(Section 303 of House amendment; section 303 of conference agreement.)

Present Law

Title V of Public Law 102–138 specifies measures that the United States shall take to lead and coordinate multilateral efforts to control the proliferation of chemical and biological weapons.

House Amendment

Same as present law.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

UNITED STATES EXPORT CONTROLS

(Section 304 of House amendment; section 304 of conference agreement.)

Present Law

Title V of Public Law 102–138 directs the President to use the authorities of the Arms Control Act and the Export Administration Act of 1979 to control the exports of defense articles and services and other goods and technologies which he determines would assist a country in acquiring the capability to develop, produce, stockpile, deliver, or use chemical or biological weapons. It also provides for a list of goods and technology.

House Amendment

Same as present law.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

SANCTIONS AGAINST CERTAIN FOREIGN PERSONS

(Section 305 of House amendment; section 305 of conference agreement.)

Present Law

Title V of Public Law 102–138 directs the President to impose sanctions on foreign persons who have knowingly and materially contributed to efforts by certain countries, projects, or entities to use, develop, produce, stockpile, or acquire chemical or biological weapons. It urges the President to undertake consultation with the country of jurisdiction in order to secure corrective action. It permits the President to delay imposition of sanctions against a foreign person for up to 90 days to pursue consultations and corrective action. It requires the President to report within 90 days after his determination on the status of the consultations and permits him to delay the imposition of sanctions for an additional 90 days if the President determines and certifies to Congress that the government is pursuing corrective actions. Upon making a determination that a foreign person has engaged in the prohibited activities, the President is required to impose government procurement sanctions against that person for at least 12 months, after which the sanctions may be terminated if the President determines and certifies that the violations have ceased. Certain exceptions also are provided (e.g., for certain defense articles and services or existing contracts). This section also provides for a Presidential waiver after 12 months, based on the President's determination that such a waiver is important to the national security interests of the United States.

House Amendment

Section 305 adds import sanctions to the sanctions which must be imposed against a foreign person found to be engaged in prohibited activities.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

DETERMINATIONS REGARDING USE OF CHEMICAL OR BIOLOGICAL WEAPONS

(Section 306 of House amendment; section 306 of conference agreement.)

Present Law

Title V of Public Law 102–138 directs the President, once information becomes available to him, to determine, within 60 days of

his receipt of pertinent information, whether any foreign country has used or made substantial preparation to use chemical weapons in violation of international law or against its own nationals. It also stipulates that the Senate Foreign Relations Committee and House Foreign Affairs Committee Chairmen, upon consultation with their ranking Minority Members, may request from the President a report on the information held by the Executive branch pertinent to the suspected violation.

House Amendment

Same as present law.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

SANCTIONS AGAINST USE OF CHEMICAL OR BIOLOGICAL WEAPONS

(Section 307 of House amendment; section 307 of conference agreement.)

Present Law

Title V of Public Law 102–138 applies to any government which the President determines has used, or is making substantial preparation to use, chemical or biological weapons in violation of international law or against its own nationals. It establishes a two-tier sanctions regime. Once a determination is made, the President shall impose immediately the specified U.S. Government-associated sanctions (foreign assistance, arms sales, arms sales financing, government credit or financing, exports of national security-sensitive goods and technology). If, after 3 months, the President is not able to certify to Congress that the violation has ceased, that the government in question has provided assurances about no further use, and that the government is willing to allow on-site inspections by international observers, then the President shall impose three out of five possible sanctions (multilateral development bank assistance, bank loans, further export restrictions, diplomatic relations, landing rights). The President may remove the country sanctions after 12 months if he determines and can certify these same changes in conduct by the government in question.

The Presidential waiver authority in present law allows the President to waive the imposition of sanctions if he determines and certifies to Congress that it is essential to the national security interests of the United States; and if the President notifies the Committee on Foreign Relations in the Senate and the Committee on Foreign Affairs in the House of Representatives of his determination and certification at least 15 days before the waiver takes effect, in accordance with foreign aid reprogramming procedures. The President also must report on the rationale for, and circumstances of, his waiver.

The President also may waive the sanctions if he determines and certifies to the Congress that there has been a fundamental change

in the leadership and policies of the government of the sanctioned country, and if the President notifies the Congress at least 20 days before the waiver takes effect.

Present law also provides contract sanctity for contracts and agreements entered into before the date on which the President imposes sanctions unless such contract sanctity would assist the country in using chemical or biological weapons in violation of international law.

House Amendment

The landing rights sanction in section 307 specifies the steps to be taken by the Secretary of Transportation in implementing this sanction and providing for emergency procedures.

With respect to import sanctions, the President must notify the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives, rather than the Committees on Foreign Relations and Foreign Affairs, of his determination and certification at least 15 days before the waiver takes effect. The notification requirement with respect to sanctions other than import sanctions is unchanged.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

PRESIDENTIAL REPORTING REQUIREMENTS

(Section 308 of House amendment; section 308 of conference agreement.)

Present Law

Title V of Public Law 102–138 requires a Presidential report to Congress 90 days after enactment of the amendment and every 12 months thereafter. This report is intended to be comprehensive and to include such information as a description of actions taken to carry out this title; efforts by countries and subnational groups to develop, produce, and use chemical or biological weapons; and any use of such weapons by a country in violation of international law.

House Amendment

Same as present law.

Senate Amendment

No provision.

Conference Agreement

The Senate recedes.

REPEAL OF DUPLICATIVE PROVISIONS

(Section 309 of Senate amendment to House amendment; section 309 of conference agreement.)

Present Law

Title V of Public Law 102–138 establishes a framework of sanctions for the proliferation and use of chemical and biological weapons.

House Amendment

No provision.

Senate Amendment to House Amendment

Section 309 repeals Title V of Public Law 102–138 and the amendments to other laws made by that title. It establishes the effective date of Title III of H.R. 1724 and the amendments to other laws contained therein as the date of enactment of Public Law 102–138.

Conference Agreement

The House recedes.

DAN ROSTENKOWSKI,
SAM GIBBONS,
Managers on the Part of the House.

LLOYD BENTSEN,
BOB PACKWOOD,
Managers on the Part of the Senate.

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